

REMARKS

The courtesy of Supervisory Primary Examiner Ashok Patel and Examiner Sulaiman Nooristany in granting telephone interviews on November 18 and December 16, 2008 to attorney Edward Callan is sincerely appreciated. During the interview the arguments presented herein with respect to claims 9, 13-16, and 17-20 were discussed. The Examiners' response to such arguments is discussed below with reference to the traversal of the claim rejections under 35 U.S.C. 103. No agreement was reached as to the allowability of the claims.

Claim 28 is amended to correct a clerical error in a reference to a prior claim.

Claim Rejections - 35 U.S.C. 103

The rejection of claims 9-20 and 25-28 under 35 U.S.C. 103(a) as being unpatentable over US patent 6,249, 805 to Fleming in view of US patent 5,999,967 to Sundsted is respectfully traversed for at least the following reasons:

Regarding independent claim 9, from which all of the other claims ultimately depend, Applicant disagrees with the Examiner's assertion that "Sundsted teaches that is well known to utilize filtering the receiving emails in combination with performing an analysis to see if there is serial, incremental user identification occurring so that conclusions can be drawn concerning automatic attempts at breaking into the e-mail system."

On page 9 of the Office Action the Examiner commented that the specification does not explicitly define "serial, incremental user ID occurring." The Examiner is requested to take judicial notice that serial, incremental user identification is a process that occurs when an entity that is not authorized to access a particular application supported by a computer system submits an automatically generated series of incrementally changing user identification indicia in order to access the particular application when a member of the submitted series of incrementally changing user

identification indicia matches a user identification indicia of an entity that is authorized to access the particular application. Such a series of incrementally changing indicia is 621, 622, 623, for example.

In the context of the present application, the particular application that is supported by a computer system is

- the delivery of a received email message to a primary mailbox of an email receiver;

and the user identification indicia is

- an email address of an entity that is attempting to send a message to the primary mailbox of the email receiver.

Access to the primary mailbox of the email receiver for receipt of the message is authorized when the email address of the entity sending the message matches an email address in a list of authorized senders.

In the context of Sundsted, the particular application that is supported by a computer system is

- the delivery of a received email message to a mailbox of an email receiver;

and the user identification indicia is

- a serial number held in an Identification Field 46 that accompanies a message that an entity is attempting to send to a mailbox of the email receiver.

The email receiver reads the identity of the sending system from the Identification Field 46. Please see column 7, lines 24-26 and 58-59.

Sundsted neither discloses nor suggests that the serial numbers held in the Identification Fields 46 that accompany the received email messages are analyzed to “see if there is serial, incremental user identification occurring,” as required by independent claim 9.

In response to applicant's previously submitted argument that the various analyses performed by the analysis module 23 of Sundsted are unrelated to seeing if a serial, incremental user identification is occurring, the Examiner asserted that:

"Sundsted further discloses in Fig. 3A a diagram of the receiver side of the filtering apparatus wherein An Analysis Module 23 connected to Decryption Module 22. Analysis Module 23 validates the electronic stamp. It also decides whether to accept, reject, or otherwise handle electronic mail based on the value of its electronic stamp. Analysis Module 23 reads the serial number from Serial Number Field 40. It then checks History Log 25 to see if this electronic stamp has been received before. If the electronic stamp is found in History Log 25, this is a good indication that the electronic mail has been delivered multiple times, either due to a fault in the electronic mail system or due to malicious intent. In either case, the electronic stamp and the associated electronic mail should be rejected (Col. 8, lines 27-24). Sundsted further discloses a Serial Number Field 40 which holds the serial number of the electronic stamp. This number is issued by the sending system. A serial number must never be reissued. The simplest serial number generator is a counter that is incremented for each electronic stamp generated (Fig. 4, unit 40)."

In rebuttal to the Examiner's above-quoted assertion, Applicant respectfully submits that in the system disclosed by Sundsted, the serial number of the electronic stamp is *not* used as user identification indicia for an entity that is authorized to send email messages to the particular email receiver. Instead, the serial number of the electronic stamp in Sundsted merely indicates a *value* that is processed to filter the received message in order to decide whether to accept, reject, or otherwise handle electronic mail based on the value of its electronic stamp. Please see column 6, lines 24-27, column 7, lines 1-5 and column 8, lines 31-36.

During the interview, Examiner Patel refused to accede to the explicit teaching in column 7 of Sundsted that the email receiver reads the identity of the sending system from the Identification Field 46; and contrary to such explicit teaching, he asserted that

identification of the sending system was provided by the electronic stamp serial number held in the Serial Number Field 40 because the Serial Number Field 40 is sent with a Sender Address Field 45, and a Signature Field 47; and that user identification changed incrementally because the Serial Number Field 40 for the electronic stamp is generated by an incremental counter.

In rebuttal to Examiner Patel's assertion, Applicant respectfully submits the following points of argument:

1. An incremental change of the electronic stamp serial number is *not* an incremental change in an *identification of the sender*, even though the electronic stamp serial number is sent with the Sender Address Field and the Signature Field, because the identification of the sender that is provided by the Sender Address Field and the Signature Field is not changed.
2. Each time a particular sender sends a new message with a new electronic stamp, there is an incremental change in the electronic stamp serial number. But it is only when a particular sender sends a series of successive emails to the same email receiver that the electronic stamp of the email received by said mailbox changes incrementally. Such an incremental change in the electronic stamp serial number of successively received emails is in accordance with an authorized use of the system, whereby the detection of such an incremental change cannot be used to draw a conclusion concerning automatic attempts at breaking into the e-mail system, as required by claim 9.
3. Sundsted does *not* disclose that the identification number held by the Identification Field 46 is changed incrementally; and Sundsted neither discloses nor suggests any reason for *incrementally changing* the identification number held by the Identification Field 46.
4. Sundsted does *not* disclose that the digital signature from Signature Field 47 is changed incrementally; and Sundsted neither discloses nor suggests any reason for *incrementally changing* the digital signature.

5. Even though the serial numbers of the electronic stamps issued by a particular sender in Sundsted's system change incrementally as they are being issued, Sundsted neither discloses nor suggests analyzing the serial numbers of the received electronic stamps to see if the serial numbers are changing incrementally.

6. Sundsted's analysis of the serial number of an electronic stamp that accompanies a message currently received by the email receiver is a comparison of the currently received electronic stamp serial number with serial numbers in a history log 25 of the electronic stamps that accompanied email messages previously sent by the same sender to the particular email receiver. Such comparison is *not* an *analysis* to see if there is "serial, incremental user identification occurring," as required by claim 9.

Dependent claims 13-16 recite, "wherein all executable programs sent as attachments are automatically separated in the JMB."

In rejecting these claims, the Examiner asserted that Fleming teaches this limitation, and in support of this assertion cited column 3, lines 24-29, which states:

"Certain electronic mail systems also allow a user to designate how to automatically handle a received electronic mail message. For example, a user can indicate that all electronic mail messages received from a certain sender can automatically be stored in a designated folder, be deleted, or be forwarded to another recipient."

However, neither the cited portion of Fleming nor any other portion of Fleming teaches or suggests that executable programs sent as attachments are automatically separated, as required by claims 13-16.

During the interview, the Examiners agreed that the limitations of claims 13-16 are *not* taught by the cited portion of Fleming. However, for the following reasons, they did not agree that claims 13-16 would be allowable if rewritten in independent form to contain the limitations of all the claims upon which they respectively depend:

- It is necessary to further review the applied references.
- The Examiners asserted that claims 13-16 are indefinite because there is no recitation in independent claim 9 of “executable programs sent as attachments.”

Applicant respectfully submits that claims 13-16 are not indefinite because it is well known to those of ordinary skill in the art that executable programs are sent as attachments to some emails, whereby the recitation of email in claim 9 inherently provides a basis for the recitation of “executable programs sent as attachments” in claims 13-16. The Examiners stated that both executable programs and email attachments are known to them.

Dependent claims 17-20 recite, “wherein if an undesired e-mail is received, discontinuation requests, or cease and desist demands, can be generated automatically and delivered to the sender.”

In rejecting these claims, the Examiner asserted that Fleming teaches this limitation, and in support of this assertion cited column 3, lines 17-21, which states:

“Whenever a recipient does not want to be included on a mailing list, the recipient can notify the de-spamming computer system, which will add the recipient's electronic mail address to the list of electronic mail addresses that are not to receive junk mail. Recently, however, such de-spamming services have ceased offering the service because it has proved to be uneconomical.”

However, neither the cited portion of Fleming nor any other portion of Fleming teaches or suggests that discontinuation requests or cease and desist demands are delivered to the *sender*, as required by claims 17-20. Instead a notification is sent to a *de-spamming computer system*, which will add the recipient's electronic mail address to the list of electronic mail addresses that are not to receive junk mail.

During the interview, the Examiners agreed that the limitation of claims 17-20 is *not* taught by the cited portion of Fleming. However, for the following reason, they did

not agree that claims 17-20 would be allowable if rewritten in independent form to contain the limitations of all the claims upon which they respectively depend:

- It is necessary to further review the applied references.

The rejection of claims 21-24 as being unpatentable under 35 U.S.C. 103(a) over US patent 6,249, 805 to Fleming in view of US patent 5,999,967 to Sundsted further in view of US patent 7,072,944 to Lalonde is respectfully traversed for at least the following reason:

Claims 21-24 all depend from claim 9 and thereby are patentable at least for the same reasons as stated above regarding claim 9. Lalonde adds nothing relevant to the limitations of claim 9 which are missing in Fleming and Sundsted.

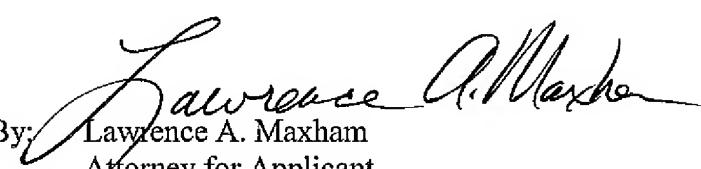
Conclusion

Reconsideration and allowance of claims 9-28 are respectfully requested. Should any issues remain unresolved, Examiner Nooristany is invited to telephone the undersigned attorney.

Respectfully submitted,

Walter KELLER

The Maxham Firm
A Professional Corporation
9330 Scranton Road, Suite 350
San Diego, California 92121
Telephone: (858) 587-7659
Facsimile: (858) 587-7658

By: 
Lawrence A. Maxham
Attorney for Applicant
Registration No. 24,483